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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/817,545	03/26/2001	Hiroaki Kubo	15162/03400	6850
24367	7590	03/16/2006	EXAMINER	
SIDLEY AUSTIN LLP 717 NORTH HARWOOD SUITE 3400 DALLAS, TX 75201			MISLEH, JUSTIN P	
			ART UNIT	PAPER NUMBER
			2612	

DATE MAILED: 03/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/817,545

Applicant(s)

KUBO, HIROAKI

Examiner

Justin P. Misleh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 10 is/are pending in the application.
- 4a) Of the above claim(s) 2 - 10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to Claim 1 have been considered but are moot in view of the new ground of rejection.

Claim Objections

2. **Claim 1** is objected to because of the following informalities: inconsistent with drawing.

The claim recites therein, "wherein the controller and/or circuit produces the image data of the image for display by reading out the electric charges from selected rows of pixels, the selected rows of pixels being interspersed with non-selected rows of pixels over the entire image sensor," which is consistent with elected Figure 13.

However, the claim further recites therein, "when the partial recording mode is chosen, produces the image data of the image for recording by reading out the electric charges from all rows of pixels located within a predetermined area on the image sensor," which is inconsistent with elected Figure 13.

Figure 13 actually shows the reading out of electric charges from selected rows of pixels located within a predetermined area on the image sensor. In other words, Figure 13 shows that every fourth row is selected.

For the purposes of examination, the examiner will interpret Claim 1 in accordance with Figure 13.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. **Claim 1** is rejected under 35 U.S.C. 102(e) as being anticipated by Misawa (US 6 700 607 B1).

5. For **Claim 1**, Misawa discloses, as shown in figures 1 – 5 and 7 – 9 and as stated in column 4 (line 48) – column 5 (line 45), column 7 (line 55) – column 9 (line 4), and column 9 (lines 35 – 41), a digital camera (see figure 5) comprising:

an image sensor (28) having pixels arranged two-dimensionally;

a controller (48) for reading out electric charges accumulated in the individual pixels of the image sensor from one row of pixels after another to produce image data of an image for display (via 40), and for producing image data of an image for recording (via 44) on receiving an instruction to record; and

a selector (“macro key” – see column 8, lines 18 – 22) for choosing between a whole-frame recording mode (“normal image-capturing mode” – see column 7, line 55 – column 8, line 18) in which an angle of view of the image for recording is made equal to an angle of view corresponding to substantially the entire image sensor (In the “normal image-capturing mode”, Misawa DOES NOT extract a “central part” from an “imaging area”.) and a partial recording mode (“macro image-capturing mode” – see column 8, line 19 – column 9, line 4) in which the

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angle of view of the image for recording is made equal to an angle of view corresponding to part of the image sensor (In the “macro image-capturing mode”, Misawa DOES extract a “central part” from an “imaging area”).),

wherein the controller (48) produces the image data of the image for display (via 40) by reading out the electric charges from selected rows of pixels (In the “macro image-capturing mode”, image data is readout by reading “½ of the photoelectric elements”, as shown in figure 2 and as stated in column 8, lines 27 – 32), the selected rows of pixels being interspersed with non-selected rows of pixels over the entire image sensor (see figure 2), and, when the partial recording mode is chosen (via “pressing the macro key”, see column 8, lines 18 – 22), produces the image data of the image for recording by reading out the electric charges from selected rows (see claim objection above) of pixels located within a predetermined area on the image sensor (Figures 2 and 7 – 9, which correspond to the “macro image-capturing mode”, shows how only selected rows or pixels located within a predetermined area on the image sensor are recorded.)

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Justin P Misleh whose telephone number is 571.272.7313. The Examiner can normally be reached on Monday through Friday from 8:00 AM to 5:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, David L Ometz can be reached on 571.272.7593. The fax phone number for the organization where this application or proceeding is assigned is 571.273.3000.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JPM

March 8, 2006



DAVID OMETZ
SUPERVISORY PATENT EXAMINER